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December 17, 1997

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Response to Ex Parte Comments
MM Docket No. 87-268

Dear Ms. Salas:

Enclosed for filing on behalf of Granite Broadcasting Corporation are an original and four (4) copies of a response to the ex parte comments filed in the above-referenced rulemaking proceeding by the Association for Maximum Service Broadcasters, Inc. ("MSTV") and the Association of Local Television Stations, Inc. ("ALTV"). Please direct any questions concerning this matter to the undersigned.

Very truly yours,



Tom W. Davidson, P.C.

Enclosures

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Before the
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In the Matter of)
)
Advanced Television Systems)
and Their Impact Upon the)
Existing Television Broadcast)
Service)

MM Docket No. 87-268

To: The Commission

RESPONSE OF GRANITE BROADCASTING CORPORATION
TO THE EX PARTE SUBMISSIONS OF THE ASSOCIATION
FOR MAXIMUM SERVICE TELEVISION, INC. AND
THE ASSOCIATION OF LOCAL TELEVISION STATIONS TO REVISE
THE DIGITAL TELEVISION ALLOTMENT/ASSIGNMENT TABLE

I. INTRODUCTION

Granite Broadcasting Corporation and its wholly owned broadcasting subsidiaries ("Granite"),¹ by their attorneys, hereby submit this response to the ex parte comments filed by the Association of Maximum Service Television, Inc. ("MSTV") and the Association of Local Television Stations ("ALTV"), on November 20 and 25, 1997, respectively. Both of these comments offer specific revisions to the Federal Communications Commission's ("Commission" or "FCC") table of digital television allotments and assignments ("DTV Table"), as adopted in the Sixth Report & Order in the above-referenced proceeding.²

¹ Since its founding in 1988, Granite Broadcasting Corporation has become the largest minority-controlled television owner in the U.S. Directly and through subsidiaries, it owns and operates the following ten television stations: KNTV(TV), San Jose, California; WTVH-TV, Syracuse, New York; KSEE(TV), Fresno, California; WPTA(TV), Fort Wayne, Indiana; WEEK-TV, Peoria, Illinois; KBJR-TV, Duluth, Minnesota; KEYE, Austin, Texas; WWMT, Kalamazoo, Michigan; WKBW, Buffalo, New York, and WDWB(TV), Detroit, Michigan.

² Sixth Report and Order, MM Docket No. 87-268, FCC 97-115 (adopted April 3, 1997, released April 21, 1997) ("Sixth R&O").

Granite has analyzed the modifications offered in the MSTV and ALTV comments and found that, for the most part, adoption of the proposed changes would permit Granite's stations to maximize their service areas and also ameliorate some of the technical problems that Granite has previously identified³ in the Commission's DTV Table. Accordingly, Granite respectfully urges the Commission to adopt the revisions to the DTV Table as outlined in the ex parte comments of MSTV and ALTV.

II. THE ADOPTION OF MSTV'S REVISED ALLOTMENT TABLE WOULD PERMIT GRANITE'S TELEVISION STATIONS TO BETTER ACHIEVE THE COMMISSION'S STATED GOALS OF REPLICATING AND MAXIMIZING STATION SERVICE AREAS

MSTV's ex parte comments (the "MSTV Proposal") identify two systemic problems in the Commission's DTV Table. First, the Commission's DTV Table includes many adjacent channel DTV assignments that are spaced too close together. This short-spacing could result in severely decreased DTV service areas for many stations. Second, the MSTV submission identified several geographic areas (i.e., the Northeast, Great Lakes region, and California coastal areas) where congestion of the spectrum led to DTV assignments which will experience significant interference problems. MSTV concluded that many of these interference problems resulted from faulty assumptions which the Commission used when designing its DTV Table.⁴ In an effort to eliminate as many of these interference problems as is possible, MSTV has proposed 357 specific changes to the Commission's DTV Table (in the continental United

³ On June 13, 1997, Granite filed a petition for reconsideration of the Fifth Report and Order and the Sixth R& O. ("Petition"). On September 23, 1997, Granite filed an Opposition to the Supplement to the Petition for Reconsideration of the Sixth Report & Order, filed by AK Media Group, Inc. On November 4, Granite filed a Reply to the Opposition to the Supplement to the Petition for Reconsideration submitted by AK Media Group, Inc.

⁴ Hammett & Edison, Inc., Granite's consulting engineers, agree with MSTV that the -42 dB and -43 dB first adjacent channel desired to undesired ("D/U") ratios used by the Commission to develop the DTV Table would not provide sufficient interference protection. MSTV also correctly recognized that the search distances that the Commission used to decide which possible interference sources to consider were frequently inadequate and served to inflate the FCC's replication figures.

States). MSTV believes that the adoption of these changes would reduce interference to both analog and digital TV service in the most congested areas and cure the short-spacing of many DTV-DTV adjacent channel assignments.

After analyzing the proposed changes, Granite finds that the revised assumptions utilized in the MSTV Proposal are more accurate than those used in the FCC's current DTV Table.⁵ As a result, the revised MSTV allotments would eliminate interference problems expected for many individual stations under the Commission's DTV Table. Most of Granite's stations would be unaffected by the modifications. However, one of Granite's stations, KNTV(TV) in San Jose, California, actually would experience a decrease in expected service area under the MSTV Proposal. While Granite fully appreciates the daisy chain effect that individualized "fixes" cause to the DTV allocation, we note that this decrease in service area likely will exacerbate certain competitive disadvantages already experienced by Station KNTV(TV), and we urge the Commission to consider this impact and any available remedies for it in its final DTV allocation decision. On the other hand, the MSTV proposal would reduce or eliminate several of the most severe technical and interference problems expected under the Commission's DTV Table for two of the Granite stations.

The MSTV modifications also are beneficial when viewed in a broader context. Specifically, the Proposal estimates that it will reduce the amount of interference to NTSC and DTV service by 33% in the Northeast, more than 32% in the Great Lakes region and 25% in the southern California region. These reductions would benefit approximately 8 million people who would lose service under the Commission's DTV Table.⁶ MSTV also states that it has cured the short-spacing of all the DTV to DTV adjacent channels. Thus, in light of the relief that would be

⁵ See MSTV Proposal at 3-8 and associated exhibits.

⁶ Id. at 8-9.

granted to two of the Granite stations and the widespread and comprehensive benefits that would be provided to numerous stations and millions of consumers across the country, Granite supports MSTV's proposed revisions to the allotment table and urges the Commission to adopt these changes. Some of the specific benefits of the MSTV Proposal are described in more detail below.

A. Station WWMT(TV), Kalamazoo, Michigan

Station WWMT(TV) currently operates on NTSC channel 3. The Commission's DTV Table has assigned the station to DTV channel 2. The MSTV Proposal would assign the station to DTV channel 29. Granite prefers the proposed MSTV allotment because it would remove the station from a channel assignment which would have been subject to numerous inherent technical difficulties. In its Petition, Granite questioned the Commission's DTV replication protocols which "have assumed that DTV service on channel 2 would be equivalent, out to a field strength of only 28.0 dBu, to DTV service at higher signal levels on other channels."⁷ Granite's Petition warned that this presumption was unwarranted, "particularly for a channel 2 assignment, since the Commission has questioned the basic suitability of this channel due to its susceptibility to interference" from both man-made and natural sources.⁸ The Commission itself has acknowledged that TV operations on channels 2 - 6 "are subject to a number of technical penalties...."⁹

Accordingly, an assignment to DTV channel 2 would have subjected Station WWMT to signal variations which likely would have reduced the station's service area. This result would place Station WWMT at a clear competitive disadvantage within its market. By

⁷ See Petition at 5.

⁸ Id.

⁹ Sixth R & O at ¶ 82.

contrast, the MSTV proposal would reallocate the station from an undesirable channel 2 allotment to channel 29. Furthermore, this new channel allotment would provide service to approximately the same area and population predicted to be served by the station under the Commission's allotment plan. However, since the service area figures are more realistic under the MSTV Proposal, the station is more likely to achieve these replication estimates. Thus, the adoption of the MSTV proposal would better meet the Commission's stated goal of ensuring that "all stations are able to provide DTV service competitively within their respective markets."¹⁰

B. Station WTVH(TV), Syracuse, New York

Station WTVH(TV) is operating on NTSC channel 5 and has been assigned by the Commission to DTV channel 47. Under the MSTV Proposal, Station WTVH(TV) would receive an allotment to DTV channel 22. Granite prefers the MSTV allotment because it places Station WTVH squarely within the core spectrum. In the Sixth R & O, the Commission stated that if channels 2 - 6 prove acceptable for DTV use, then it may retain the use of these channels and adjust the core spectrum to encompass channels 2 - 46 rather than channel 7 - 51. If the core spectrum is defined in this way, Station WTVH(TV)'s channel 47 assignment could fall outside the core spectrum. As a result, the station would be required to abandon its channel position after the transition period and make a second move to a channel within the Commission's new "core spectrum." The significant costs associated with a second move would not be imposed on all stations within each market and, to date, there are no plans to reimburse stations for the costs associated with a second forced move. Therefore, the redefinition of the core spectrum in this manner would inevitably disadvantage Station WTVH(TV) within its market.

Utilization of the proposed MSTV allotment would eliminate the uncertainty associated with this entire question. With a DTV channel 22 allotment, the station would be assured of

¹⁰ Id. at ¶ 29.

receiving an assignment within the core spectrum under either of the Commission's stated approaches. Notably, this new allotment would provide service to an area and population which roughly equals that predicted under the Commission's allotment table. Accordingly, there would be no expected loss of service to the public. In light of these dual benefits, Granite urges the Commission to adopt MSTV's proposed revisions.

III. ALTV'S PROPOSAL WOULD PROPERLY PERMIT ALL DTV STATIONS TO USE POWER LEVELS WHICH WOULD FULLY SERVE STATION SERVICE AREAS

On November 25, 1997, ALTV submitted comments to the Commission regarding the disparity in the authorized power between the DTV channels of existing UHF stations that will operate on UHF DTV channels, and the DTV channels of existing VHF stations that will operate on UHF channels. ALTV's proposes to permit all DTV stations to increase their power to 1000 kW, provided that tilt-beam antennas and/or other technologies are employed to prevent any incremental visible interference. This proposal would not change any channel assignments or result in increased interference levels. Granite supports ALTV's goal of allowing each station to operate at a signal strength which will permit full coverage of its service area. The ALTV proposal also offers a reasonable method for resolving any resulting interference disputes. In light of this, Granite urges the Commission to adopt the recommendations offered by ALTV.

IV. CONCLUSION

The technical problems which result from the Commission's erroneous assumptions (as described in the MSTV Proposal) are real. In fact, Granite has made several filing in this rulemaking proceeding which detail such interference and other technical problems that are likely to occur in the operation of several of its stations. Since these problems will reduce the

service area and the competitive position of its stations, Granite has requested specific changes to the Commission's DTV Table in an effort to minimize or eliminate these problems. Not surprisingly, for the same reasons, other stations also have requested specific channel changes. In fact, as MSTV details in its comments, more than 230 petitions for reconsideration of the Fifth and Sixth R & O were filed with the Commission and more than 60 supplemental petitions for reconsideration are pending.¹¹ Due to the daisy chain effect that any allotment change will have on other stations in the market, a comprehensive approach to revisions in the allotment table is more likely to successfully resolve the systematic technical problems outlined by MSTV.

Therefore, given the sheer magnitude of requested changes, Granite urges the Commission to adopt the comprehensive revisions proposed by MSTV. According to MSTV, these revisions would benefit about 8 million people. As previously described, Granite's stations also are among those which would be benefited by the adoption of this new table. Since MSTV's approach will simultaneously resolve the potentially competing allotment concerns of numerous stations, the adoption of this table is far preferable to a case-by-case revision of the Commission's DTV Table. This comprehensive solution would eliminate the delay that would be inherent in a station-by-station approach. While MSTV's proposal "is not intended to foreclose favorable consideration of present and future requests for individual changes to the DTV Table," it would minimize the need for many of the individual "fixes" that have been requested. Therefore, MSTV's proposal would minimize the time required to "correct" the

¹¹ MSTV Proposal at 2.

allocation table and would facilitate an effective transition to digital television at the earliest possible date. With this goal in mind, Granite also urges the Commission to adopt ALTV's proposal to permit all stations to increase power to 1 megawatt.

Respectfully submitted,

GRANITE BROADCASTING
CORPORATION

By:



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Date: December 17, 1997

CERTIFICATE OF SERVICE

I, Annamarie Valenti, an employee of Akin, Gump, Strauss, Hauer & Feld, L.L.P., certify that a copy of the foregoing response by Granite Broadcasting Corporation to the ex parte comments submitted by the Association for Maximum Service Broadcasters, Inc. and the Association of Local Television Stations, Inc. in MM Docket No. 87-268 was sent via First-Class U.S. mail, postage prepaid, on this 17th day of December, 1997 to the following parties:

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